

**MILLSTONE TOWNSHIP  
BOARD OF ADJUSTMENT  
MEETING MINUTES  
OCTOBER 22, 2008**

The Meeting is called to Order by Chairman Novellino at 7:40 p.m.

Reading of the Adequate Notice by Mr. Morelli.

Salute to the Flag.

Roll Call: Present: Novellino, Bailey, Conoscenti, Frost , Curcio, Devine, Lambros and Morelli. Absent: Barthelmes.

**APPROVAL OF MINUTES:**

August 27, 2008 Minutes – Mr. Conoscenti made a motion to approve the Minutes and Mr. Lambros offered a second: Conoscenti, Lambros, Bailey, Frost and Novellino voted yes to approve the minutes.

September 24, 2007 Minutes – Mr. Curcio made a Motion to approve the Minutes and Mr. Frost offered a Second. Curcio, Frost, Lambros, Conoscenti, Bailey, Morelli and Novellino voted yes to approve.

**RESOLUTION:**

**Z08-01SHELLY'S SCHOOL FOR DOGS** – Block 57, Lot 33 – Located at Burnt Tavern Road consisting of 56.47 Acres in the BP Zone. Applicant seeks use variance approval to construct a 30,565, two-story building to operate a school for dogs. Bifurcated Application. Variances needed. Deemed Complete 4-3-08. Date of Action 8-1-08. Carried from 6-25-08. Matter denied on 7-23-08. Applicant has granted an extension of time for the memorialization of the Resolution of Denial requesting that the Board grant a Motion to Reconsider the application and allow the applicant to present new evidence to the Board so that a Motion for Reconsideration may be granted. Motion to Reconsider failed and the reconsideration was denied 9-24-08.

Resolution tabled to the November 13, 2008 Meeting.

**EXTENSION OF TIME:**

**Z07-04 CKV REALTY, LLC** – Block 57, Lot 16. 53.39 acres located in the BP Zone Located at 33 Burnt Tavern Road. Transferred from the Planning Board. Application is for a construction of a garden center and nursery related facility including construction of a 15,000 s.f. building. Applicant received waivers from checklist items for the use

variance portion of the application. Use Variance Approved and Resolution Memorialized 11-28-07. Applicant returns to the Board with a request for an Extension of Time within which to apply for the Site Plan portion of the bifurcated application.

Edward Rosen, Esq. representing the applicant. He explained that the applicant had hired an engineer who was to mark the wetlands and apply for delineation by NJDEP. He advised that the engineer did not do what he was ~~hired~~<sup>suppose</sup> to do and the applicant had to hire another engineer. The applicant respectfully requests the extension offered in the ordinance. The applicant's time would run six months from November 28, 2008 which is the one-year anniversary date of Memorialization of the Resolution. The extension is good through May 28, 2009.

The previous engineer had staked the property for the wetland delineation but that engineer did not file for the delineation. He advised that the deed restriction of the property cannot be drawn up until the wetlands are delineated. The applicant wants to use as much of the property as possible for his nursery. Engineer Matt Shafai advised that the property definitely must be delineated before the applicant submits a site plan. The Extension would be for six months beginning November 28, 2008.

Attorney Vella advised the Board that members did not have to vote on the original application in order to consider the Extension request that is before them.

Mr. Curcio made the Motion to grant the Extension of Time and Mr. Morelli offered a Second. Roll Call Vote: Curcio, Morelli, Devine, Bailey, Lambros Conoscenti and Novellino vote yes to the Extension of Time.

**CARRIED APPLICATION:**

**Z08-07 36 FLAGS GAME AND GOLF ADVENTURE, INC. – Block 56, Lot 13.01.**

4.163 acres located in the HC-1 Zone. Site is the westerly portion of property developed as Dunkin' Donuts. Applicant seeks to add a miniature golf course and related club house "pro-shop". Preliminary and Final Major Site Plan, Use and Bulk Variance. Deemed Complete 8-20-08. Date of Action: 12-17-08

Attorney Vella entered two new exhibits into evidence:

A-24 Traffic Engineering and Traffic Study, prepared by Maser Engineering dated 10-17-08.

BOA -7 Shade Tree Commission Report dated 10-14-08.

Attorney Kenneth Pape representing the applicant.

Attorney Vella swore in Peter Strong, P.E., P.P. as applicant's engineer. He has testified before the Board and is accepted as the applicant's engineer this evening.

Exhibit A-25 was entered into evidence, revised lighting plan provided by Rudd Lighting, date printed 9/8/08, last revised 4/25/08. Mr. Strong went over the revised plan. The light pole height was reduced to 15 1/2 ft. from 18 ft. The base heights will be reduced so they are not more than 6 inches from grade per Mr. Coppola's comments. The mini-golf only area was reduced by less than half to 4 candles, as recommended by the Board professionals. Lighting now offers better distribution of light. The bulbs were reduced from 250 watts to 150 watts.

Engineer Matt Shafai advised that the parking lot area lighting is the same lighting that is in place presently.

Peter Strong explained how lighting intensity readings are measured. Mr. Coppola suggested that a 100 hour check on the lighting would be beneficial to assure it is the appropriate lighting for the project. Mr. Coppola asked if all lighting would be turned off at 12:00 a.m. Mr. Pape advised that lights are turned off one-half hour after closing.

Mr. Pape advised that the Dunkin' Donuts drive thru is open 24/7. Their light fixtures are on at night. They are the same light fixtures and light bulbs and of the same intensity as the lights located in all three parking areas.

Mr. Frost is concerned regarding glare to people driving on the road due to the topography of the property and he asked for clarification. Mr. Strong went over the topography of the Millstone Golf Facility that is in place on Route 33 and has similar topography.

Entered into evidence, Exhibit A-25, Soil Erosion & Sediment Control Plan Panel B of Millstone Golf Facility, dated 5/1/98, last revised 1/13/00, that has been in place for the past 8 years. There is a high knoll that is very visible. The road immediately in front of the building opposite the knoll is 150 ft. and at 36 flags it is 155 ft. The light fixtures at 36 [Flags are](#) proposed to be 20 feet above Rt. 537.

Mr. Pape went over the landscaping. He read into the record the Shade Tree Commission's comments that they made regarding the landscaping plan that they had reviewed.

Mr. Strong advised the distance to the nearest residential neighbor is 1,100 feet from the closet corner of the mini golf property. The closest residential zone is the R-130 zone and is 700 feet from their property corner to that property. The applicant will work with the Shade Tree and Mr. Coppola to enhance the landscaping. Mr. Coppola went over their report as it addresses the landscaping on the property. His concern is the re-

grading and preservation of the trees that would be affected by the grading of the property.

Mr. Pape has no problem with adding additional landscaping. The area around the holly trees has been protected and continues to be protected. Before they start construction, they will establish a drip line to protect those trees. Board Planner Coppola has concerns regarding the development to the rear as it affects the trees. Mr. Coppola requests more information so that the Board can make a decision. Mr. Strong stated that the trees near the retaining wall are 20 feet away from the 4 foot high wall. Mr. Coppola suggested showing the drip line on the landscaping plan.

Clean fill would be needed for the mounding of the golf course. Local clean fill would be used and Mr. Pape mentioned some of the local providers.

Peter Strong provided a written report addressing the EC's report. Soil sampling was performed in 2004 and since then, there has been no farm activity, no industrial or retail activity on this site. They would perform some additional testing in the recreation area. Mr. Pape advised the Board that a lot of testing was done on this site. No testing had ever revealed any hot spot. The Board decided that they would wait for the EC to meet and go over Mr. Strong's report and provide a response then return their report to the Board.

Regarding parking, Mr. Strong showed the Board where the 4 additional parking spaces would be located.

Traffic studies were performed on the very busy weekend of October 3, 4 and 5 2008. On that weekend, Fright Fest at Great Adventure opened, Susan B. Koman cancer walk took place at Great Adventure as well as the Western Monmouth County Motorcycle group had its motorcycle ride.

Mr. Pape advised that throughout the entire weekend, both parking lots of the facilities were never full.

Regarding fencing, it would create a delineation showing the end of the play area. The fence the applicant is proposing would blend better than a Jer<sup>o</sup>th fence. The preferred fence is a two slat horse fence around the play area itself. The fence is four feet high and made of a composite material. The Board has a safety concern about kids climbing fences and would prefer a kid-proof fence.

Mr. Strong advised that they would be able to comply with the Board Engineer's report. In September, they revised the plans and resubmitted them, substantially addressing the concerns of Mr. Shafai. Mr. Shafai issued a report to those revised plans on September 17, 2008.

The applicant agreed that they will not have any external speakers.

At 9:00 p.m., the Board recessed, returning at 9:12 p.m.

Attorney Vella swore in Richard Maser, PE, PP who offered his background. He is the president of Maser Engineering. He is a certified Municipal Engineer. He has been practicing in the field for 35-years. His particular area of expertise is in traffic engineering. He is accepted by the Board as a traffic expert.

Referring to A-24, the traffic report, he advised the report dealt with trip generation for the proposed golf facility, site access and shared parking analysis. Mr. Maser explained he used national standards to achieve his figures. Dunkin' Donuts' peak hours are between 8:00 a.m. and 9:00 a.m. Evening hours where the miniature golf course would be at the highest traffic demand, Dunkin' Donuts is at its lowest. Mr. Maser advised the Board that on October 3, 4, and 5<sup>th</sup> counts were taken. Peak demand for Dunkin' Donuts is a total of 13 to 15 parking stalls being used at any peak periods between 10 a.m. to 10:00 p.m., those are the hours that the miniature golf would be open. Dunkin' Donuts has 18 stalls available. Mr. Maser explained a chart located on page 15 of Exhibit A-24, the traffic report.

The Board asked for clarification of the numbers referenced on the chart. The Board is concerned about the volume of movement on the driveway.

Mr. Maser explained that the trip projections provided in his report are based on national studies. Mr. Maser explained the meaning of levels of service A, B and C as it relates to the intersections of the driveway with KFC drive and KFC drive and route 537. . He felt that on Saturday, October 4<sup>th</sup>, the service level was C on KFC drive and route 537 but barely and he explained.

Mr. Pape suggested it may be beneficial for the Board to hire a traffic engineer to analyze the traffic information that is before the Board.

Mr. Novellino's concern is that he wants to understand how much traffic is coming out of Dunkin' Donuts and how will an increase [in traffic in traffic](#) coming out at peak times affect the entire area. He is also concerned about the potential for car accidents in the parking lot due to the mixture of through traffic from Dunkin Donuts and patrons of the golf course backing out of parking spots.

Mr. Coppola when asked, offered that the suggestion made by Mr. Pape is to be considered. The Board is questioning the data. A traffic expert may help them with the veracity of the data.

The Board wants real measurements of real time of how many cars came in and how many cars came out. The Board is concerned with the traffic that exits the property

during peak hours in the summertime. The backup of traffic will not allow patrons to get out.

Mr. Maser advised that when the site is at its maximum, at that point, there will not be westbound traffic. traffic in the west bound direction will be not be occurring. The number of vehicles is minuscule in comparison to traffic being generated by Wawa, Burger King, and McDonalds.

Mr. Pape has information from midnight Oct 3<sup>rd</sup> thru Oct 5<sup>th</sup> in the form of receipts that reflect the total number of people that went to Dunkin' Donuts. Entered into evidence as Exhibit A-27, Dunkin' Donuts register data. Mr. Pape went over the data with the Board. They have KFC's charts entered into evidence as Exhibit A-28 register data from KFC for October 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> they open around 11:00 a.m. and close at 12:00 a.m.

Mr. Maser advised that over three days, a machine line counter counted the cars, at 15 minute intervals, that came in and left KFC Drive. They also physically observed how many cars parked in parking spaces. An estimate of how much activity took place was done.

Regarding the Board enlisting a traffic expert to evaluate applicant's traffic report and information was discussed. Engineer Matt Shafai suggested Traffic Expert, Jerry Canter, who has performed services on behalf of the Planning Board.

Attorney Vella swore in Mr. Kanwar, the property owner of Dunkin' Donuts and KFC. He advised that he kept the records for the activities on the properties. He stated counts were taken on the weekend of October 3-5, 2008, which he stated was a very busy weekend with high activity days. Mr. Pape offered to perform another count but felt that the numbers would not be as high as that weekend when the counts were taken.

The Board would take appropriate action to enlist the service of traffic engineer Jerry Cantor for this application by making a Resolution to do same. Attorney Vella advised the procedure. Mr. Curcio made a Motion and Mr. Bailey offered a second. Roll Call Vote: Curcio, Bailey, Lambros, Conoscenti, Morelli Devine and Novellino voted yes. Mr. Morelli voted no to hiring a traffic engineer.

Mr. Maser advised that he will will hand-perform a traffic count the intersection of the Dunkin Donuts driveway and KFC drive.

The application was opened to the public at 10:24 p.m. Seeing no public comment on the application, the application was closed to the public at 10:24 p.m.

Chairman Novellino announced that the meeting would be carried to December 11, 2008 without any further noticing required.

At 10:25 p.m. by Motion of Mr. Curcio and a Second offered by Mr. Bailey the meeting adjourned.

Respectfully submitted,

Pamela D'Andrea